

AMENDED IN SENATE JANUARY 22, 2004

AMENDED IN SENATE JANUARY 14, 2004

AMENDED IN SENATE APRIL 22, 2003

## SENATE BILL

No. 246

### Introduced by Senator Escutia

February 14, 2003

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An act to amend Section 19280 of the Revenue and Taxation Code, relating to courts.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 246, as amended, Escutia. Courts: fines and penalties: collection.

Under existing law, a court is authorized to order fines, fees, penalties, surcharges, or assessments, under varying circumstances. Existing law provides a procedure for the collection of those fines, fees, penalties, surcharges, and assessments by the courts and counties. *Existing law provides that delinquent fines, penalties, or restitution imposed by a superior or municipal court or an individual for specified criminal offenses be referred by the county or the state to the Franchise Tax Board for collection in certain instances.*

This bill would ~~state the intent of the Legislature that court-imposed fines, fees, penalties, surcharges, and assessments be promptly and expeditiously collected~~ *additionally authorize a superior court to refer these delinquent fines, penalties, and restitution to the Franchise Tax Board for collection, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~—yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

~~SECTION 1. It is the intent of the Legislature that~~

SECTION 1. Section 19280 of the Revenue and Taxation Code is amended to read:

19280. (a) (1) Fines, state or local penalties, forfeitures, restitution fines, restitution orders, or any other amounts imposed by a superior or municipal court of the State of California upon a person or any other entity that is due and payable in an amount totaling no less than two hundred fifty dollars (\$250), in the aggregate, for criminal offenses, including all offenses involving a violation of the Vehicle Code except offenses relating to parking or registration or offenses by pedestrians or bicyclists, may, no sooner than 90 days after payment of that amount becomes delinquent, be referred by the *superior court, the county, or the state* to the Franchise Tax Board for collection under guidelines prescribed by the Franchise Tax Board.

(2) For purposes of this subdivision:

(A) The amounts referred by the *superior court, the county, or state* under this section may include any amounts that a government entity may add to the court-imposed obligation as a result of the underlying offense, trial, or conviction. For purposes of this article, those amounts shall be deemed to be imposed by the court.

(B) Restitution orders may be referred to the Franchise Tax Board only by a government entity, as agreed upon by the Franchise Tax Board, provided that all of the following apply:

(i) The government entity has the authority to collect on behalf of the state or the victim.

(ii) The government entity shall be responsible for distributing the restitution order collections, as appropriate.

(iii) The government entity shall ensure, in making the referrals and distributions, that it coordinates with any other related collection activities that may occur by *superior courts, counties, or other state agencies*.

(iv) The government entity shall ensure compliance with laws relating to the reimbursement of the State Restitution Fund.

1 (C) The Franchise Tax Board shall establish criteria for  
2 referral, which shall include setting forth a minimum dollar  
3 amount subject to referral and collection.

4 (b) (1) For the period January 1, 2001, to December 31, 2002,  
5 inclusive, the Franchise Tax Board may limit referrals under the  
6 program authorized by this article to 17 counties.

7 (2) The report required to be issued by the Franchise Tax Board  
8 pursuant to Section 13 of Chapter 1242 of the Statutes of 1994, as  
9 amended by Section 46 of Chapter 604 of the Statutes of 1997, is  
10 due to the Legislature on or before April 1, 2001, and shall  
11 specifically address the feasibility and advisability of expanding  
12 the program authorized by this article to accept referrals from all  
13 58 counties.

14 (c) Upon written notice to the debtor from the Franchise Tax  
15 Board, any amount referred to the Franchise Tax Board under  
16 subdivision (a) and any interest thereon, including any interest on  
17 the amount referred under subdivision (a) that accrued prior to the  
18 date of referral, shall be treated as final and due and payable to the  
19 State of California, and shall be collected from the debtor by the  
20 Franchise Tax Board in any manner authorized under the law for  
21 collection of a delinquent personal income tax liability, including,  
22 but not limited to, issuance of an order and levy under Article 4  
23 (commencing with Section 706.070) of Chapter 5 of Division 2 of  
24 Title 9 of Part 2 of the Code of Civil Procedure in the manner  
25 provided for earnings withholding orders for taxes.

26 (d) (1) Part 10 (commencing with Section 17001), this part,  
27 Part 10.7 (commencing with Section 21001), and Part 11  
28 (commencing with Section 23001) shall apply to amounts referred  
29 under this article in the same manner and with the same force and  
30 effect and to the full extent as if the language of those laws had  
31 been incorporated in full into this article, except to the extent that  
32 any provision is either inconsistent with this article or is not  
33 relevant to this article.

34 (2) Any information, information sources, or enforcement  
35 remedies and capabilities available to the court or the state  
36 referring to the amount due described in subdivision (a), shall be  
37 available to the Franchise Tax Board to be used in conjunction  
38 with, or independent of, the information, information sources, or  
39 remedies and capabilities available to the Franchise Tax Board for  
40 purposes of administering Part 10 (commencing with Section

1 17001), this part, Part 10.7 (commencing with Section 21001), or  
2 Part 11 (commencing with Section 23001).

3 (e) The activities required to implement and administer this  
4 part shall not interfere with the primary mission of the Franchise  
5 Tax Board to administer Part 10 (commencing with Section  
6 17001) and Part 11 (commencing with Section 23001).

7 (f) For amounts referred for collection under subdivision (a),  
8 interest shall accrue at the greater of the rate applicable to the  
9 amount due being collected or the rate provided under Section  
10 19521. When notice of the amount due includes interest and is  
11 mailed to the debtor and the amount is paid within 15 days after  
12 the date of notice, interest shall not be imposed for the period after  
13 the date of notice.

14 (g) In no event shall a collection under this article be construed  
15 as a payment of income taxes imposed under Part 10 (commencing  
16 with Section 17001) or Part 11 (commencing with Section 23001).  
17 ~~court-imposed fines, fees, penalties, surcharges, and assessments~~  
18 ~~be promptly and expeditiously collected.~~

